

REPORT - PLANNING COMMISSION MEETING
September 25, 2003

Project Name and Number: Natural Bridges Preschool (MIS2003-01407)

Applicant: Suzette J. Takei.

Proposal: To consider a Zoning Administrator referral of a Zoning Administrator Permit to allow a Large Family Day Care facility

Recommended Action: Approve, based on Findings and subject to Conditions.

Location: 45013 Imnaha Court.

Assessor Parcel Number(s): 519-1677-003-00.

Area: Lot size: 13,021 square feet, Building size: 3,050 square feet.

Owner: Suzette J. and Jonathan H. Takei

Environmental Review: This project is statutorily exempt from the California Environmental Quality Act (CEQA) per section 15274, Family Day Care Homes.

Existing General Plan: RL 5-7, Low Density Residential (5 to 7 dwelling units per acre)

Existing Zoning: R-1-6(H-I), Single Family Residence District, minimum lot size 6,000 square feet with Hillside Combining District Overlay; PUD-77-5, Planned Unit Development

Existing Land Use: Single-family residence.

Public Hearing Notice: Public hearing notification is applicable. A total of 29 notices were mailed to owners and occupants of property within 100 feet of the site on the following streets: Imnaha Court, Sage Court, Tolteca Court and Washo Drive. Notices were also mailed to the residents of Imnaha Court who submitted a petition regarding the proposed Large Family Day Care. The notices to owners and occupants were mailed on September 12, 2003. A Public Hearing Notice was delivered to The Argus on September 8, 2003, to be published by September 11, 2003.

Background and Previous Actions: The site is located at the rear end of the cul-de-sac on Imnaha Court. The Planning Commission originally approved Planned Unit Development (PUD-77-5) for a 214-unit single-family residential development on December 8, 1977. The applicant's parents, Susan J. and Donald R. Hamilton, are the original owners of the two-story single-family residence. The applicants, Suzette and John Takei, have recently purchased the property from Mr. & Mrs. Hamilton. Building permits were issued earlier this year to expand the first and second floor by 891 square feet to accommodate the applicants' relocation to the property.

Project Description: The applicant is requesting approval for a Zoning Administrator Permit for a Large Family Day Care facility is for up to 14 children. The proposed hours of operation are 7:00 A.M. to 5:00 P.M. Monday through Friday. (Informational 1)

Notices were mailed, per Fremont Municipal Code Section 8-22147.5(g), to property owners and occupants of residences within 100 feet radius of the subject site on July 8, 2003. City staff received a letter, dated July 16, 2003 and signed by 13 residents of Imnaha Court, opposing the approval of the Large Family Day Care facility. (Informational 2) One other property owner added their name to the list on July 30, 2003. Some of the concerns raised in the letter were, but not limited to:

- Traffic – increase in traffic, parking problems and opportunities for accidents
- Noise – increase in noise level will destroy the essence of a quiet residential court
- Safety – increase in opportunities for “stranger danger”

Subsequent to the receipt of this letter, staff provided direction to the applicant to facilitate a neighborhood meeting and invite all of the residents on Imnaha Court to disclose all relevant information regarding the day care operation and to provide an opportunity for both the neighbors to ask questions and for the applicant to respond to the concerns. The applicant held an open house and information night at their residence on July 31, 2003 at 8:00 P.M. (Informational 3)

The applicant and residents were not able to reach a consensus and City staff has received a letter, dated August 4, 2003 and signed by 12 residents, requesting a Public Hearing to facilitate a resolution. (Informational 4) One other neighbor added their name to the list on August 5, 2003. The Zoning Administrator has referred this item to Planning Commission for review.

Project Analysis:

State of California Health and Safety Code Conformance: The proposed project is consistent with the State of California Health and Safety Code because the State policy recognizes the need for family daycare facilities to be provided in residential districts and has preempted local regulation by limiting City authority to regulate Large Family Day Care facilities in residential districts.

- **California Health and Safety Code Section 1597.40(a):** It is the intent of the Legislature that family day care homes for children should be situated in normal residential surroundings so as to give children the home environment, which is conducive to healthy and safe development. It is the public policy of this state to provide children in a family day care home the same home environment as provided in a traditional home setting.

The Legislature declares this policy to be of statewide concern with the purpose of occupying the field to the exclusion of municipal zoning, building and fire codes and regulations governing the use or occupancy of family day care homes for children, except as specifically provided for in this chapter, and to prohibit any restrictions relating to the use of single-family residences for family day care homes for children except as provided by this chapter.

California Health and Safety Code Section 1597.46 allows a city limited authority to regulate Large Family Day Care within homes on lots zoned for single-family dwellings. A city has three proposed regulatory routes:

1. Classify Large Family Day Care as a permitted use;
2. Grant a non-discretionary permit for Large Family Day Care which meets reasonable standards related to spacing, concentration, traffic, parking and noise; or
3. Require a proposed Large Family Day Care to obtain a permit to use a lot zoned for single-family dwellings. The use permit must be granted if the use meets the reasonable standards related to spacing, concentration, traffic, parking and noise.

City of Fremont has selected regulatory route (3) for Large Family Day Care. The Large Family Day Care must obtain a Zoning Administrator Permit and meet the standards set forth in Fremont Municipal Code Section 8-22147.5.

General Plan Conformance: The existing General Plan Land Use designation for the project site is RL 5-7, Low Density Residential (5 to 7 dwelling units per acre). The proposed project is consistent with the existing General Plan Land Use designation for the project site because the General Plan allows Large Family Day Care facilities within the Residential Land Use designation. The General Plan recognizes in the Land Use Chapter under Day Care (Private Sector, Non-Municipal – p.3-84) that “the labor participation rates show a growing number of dual working parents and single parents. This indicates a need for care and supervision of children outside the home and outside regular school hours.” The following General Plan Goals, Objectives, and Policies are applicable to the proposed project:

- **Land Use Policy LU 1.1, Allowed Uses and Densities:** Schools, Childcare Centers, Public and Semi Public Facilities (e.g., churches) and Nursing Care facilities. These uses may be allowed, although conditions may be established to limit the impacts of these uses on residents.
- **Land Use Goal LU 8:** Provision and enhancement of day care services through a partnership of all sectors of the community.
 - **Land Use Policy LU 8.1:** To accommodate day care needs of children, frail elderly and developmentally disabled adults, services shall be allowed in any commercial, industrial or residentially designated area, subject to conditions regarding size of facility, access, parking and the availability of outdoor space.
 - **Land Use Policy LU 8.2:** Care facilities should be located to minimize exposure to noise, localized air pollutions sources and other environmental hazards.
- **Health & Safety Policy HS 8.1.2:** Protect the noise environment in existing residential areas.

Zoning Regulations: The project site has a zoning designation of R-1-6(H-I), Single Family Residence District, minimum lot size 6,000 square feet with Hillside Combining District Overlay. The Large Family Day Care facility use is a permitted use with a Zoning Administrator Permit within the R-1-6(H-I) district. Large Family Day Care facilities are required to obtain a license from the California Department of Social Service, Community Care Licensing Division for Family Child Care Homes. The applicant has filed an application with the Community Care Licensing Division. Additionally, the use, as proposed and conforming to the recommended conditions of approval, would be in compliance with Ordinance No. 2045, Large Family Day Care Homes, adopted by the City Council on September 21, 1993 (Fremont Municipal Code Section 8-22147.5.) (Exhibit "A")

Section 8-22147.5 of the Fremont Municipal Code provides standards for a Large Family Day Care facility, which, in part, authorizes the Zoning Administrator and/or Planning Commission to impose operational conditions on its use. The permit allows for, and ensures that, the proposed use is compatible with its surrounding and location. Operational conditions are imposed to offset potential impacts caused by the facility to adjacent neighboring properties, such as impacts associated with parking, traffic, noise and outdoor play areas.

Generally, the main concerns of adjacent property owners are that of noise, traffic, parking and the safety of children in care. Conditions are therefore included to ensure that the facility will operate in a manner compatible with the neighborhood. Further, should the Zoning Administrator find at anytime that conditions have not been fulfilled or the use has caused an impact on adjacent neighboring properties, the applicant may be required to implement additional mitigation measures.

Traffic: As stated earlier in 'Background,' the subject site is located at the rear end of the cul-de-sac, approximately 700 feet from South Grimmer Boulevard. Staff requested the Traffic Engineering Division to perform a traffic analysis for the proposed Large Family Day Care at 45013 Imnaha Court. The finding from the traffic analysis was that the proposed use would have no significant traffic impact to the neighborhood. (Informational 5)

24-hour traffic counts were obtained on Imnaha Court on Wednesday, September 4, 2003, after the school year began and the following are the results:

Existing Volumes:

Average Daily Traffic (ADT) = 255 trips
 AM Peak Hour (8:00-9:00 a.m.) = 35 trips
 PM Peak Hour (4:00-5:00 p.m.) = 16 trips

Estimated Volumes with proposed project:

ADT with Project = 318 trips, 63 new trips
 AM Peak Hour = 51 trips, 16 new trips
 PM Peak Hour = 29 trips, 13 new trips

The traffic engineer's analysis utilized the Institute of Transportation Engineers (ITE), Trip Generation rates 6th edition for Day Care Center (ITE Land Use #565.) New project trip estimates were calculated and added to the existing volumes to estimate project trips. Based on a review of the existing traffic volumes, the data indicates the volumes are very low and with the project, the estimated new trips generated by the project will result in minimal traffic impacts.

To put the volume count in perspective, an ADT of 318 vehicles is well below the City's minimum volume threshold of 800 vehicles per day, which is the minimum volume criteria (ADT) that must be satisfied for the installation of speed bumps. Also, because the site is in a court, the volume is low. ADT of residential streets in Fremont can range from a few hundred vehicles daily to 6,000 vehicles per day. The traffic engineer also reported that the intersection into the court has a good accident record with no reported accidents in the last four years.

Therefore, based on a review of the volume data and accident data, the proposed family day care would have no significant traffic impacts to the neighborhood.

In addition, the applicant is requesting the customers to agree to driving 15 mph or less while on Imnaha Court. (Informational 8)

Parking: Section 8-22147.5 of the Fremont Municipal Code requires a minimum of two parking spaces available to serve the customers during the facility's hours of operation. The parking spaces will be required to be located in a manner to be readily and safely utilized by the customers. (Conditions 8 & 9) In addition, the applicant is requesting the customers to agree to a 10-minute curb time for drop-off and pick-up, to parking only in the subject site's driveway or on the curb next to the subject site so as not to restrict the flow of traffic for the neighbors. (Informational 3)

Noise: The Fremont General Plan states that outdoor noise (defined as "unwanted sound") levels for residentially developed areas shall generally maintain a maximum outdoor Ldn (day and night average noise level) of 60 decibels (dB). Section 8-22147.5 of the Fremont Municipal Code requires that Large Family Day Care facilities limit noise levels originating from the facility from exceeding an Ldn level of 60 dB at the property lines. (Condition 6)

The subject site backs up to the San Francisco Water District Hetch Hetchy Water Line property. The northern side property line, approximately 30 feet in length, is adjacent to the neighbor's front yard. The neighbor to the southern side shares the full side property line. Section 8-22147.5 of the Fremont Municipal Code requires that Large Family Day Care facilities that the use and location of the play areas shall not cause any excessive discomfort for adjacent residents or property owners on the use of their property. (Condition 7)

Safety: The neighbors have indicated that the proposed use would increase safety concerns in the neighborhood. Staff requested an analysis from the City of Fremont Police Department for the proposed Large Family Day Care. The finding from the police analysis was that the proposed use would have no significant impact on safety concerns in the neighborhood. (Informational 6)

Conclusion: As a result of the traffic and safety issues that staff investigated, there are no significant traffic or safety impacts that could be caused by the proposed Large Family Day Care facility. Operational conditions will be imposed as required by the Zoning Administrator permit to offset potential impacts caused by the facility to adjacent neighboring properties in the area associated with parking, noise and outdoor play areas.

A Large Family Day Care facility, in conformance with the regulations set forth by the California Department of Social Service, Community Care Licensing Division for Family Child Care Homes, Fire Marshall and Ordinance No. 2045 for the Fremont Municipal Code, can contribute positively to a child's development, are an essential service for working parents and offers neighborhood-based care in the City of Fremont.

Enclosures: Exhibit "A" Ordinance No. 2045 (Fremont Municipal Code Title VIII, Chapter 2)
Exhibit "B" Findings and Conditions of Approval for MIS2003-01407

Informational 1 Applicant Statement of Proposed Operation for Natural Bridges Preschool, dated August 28, 2003

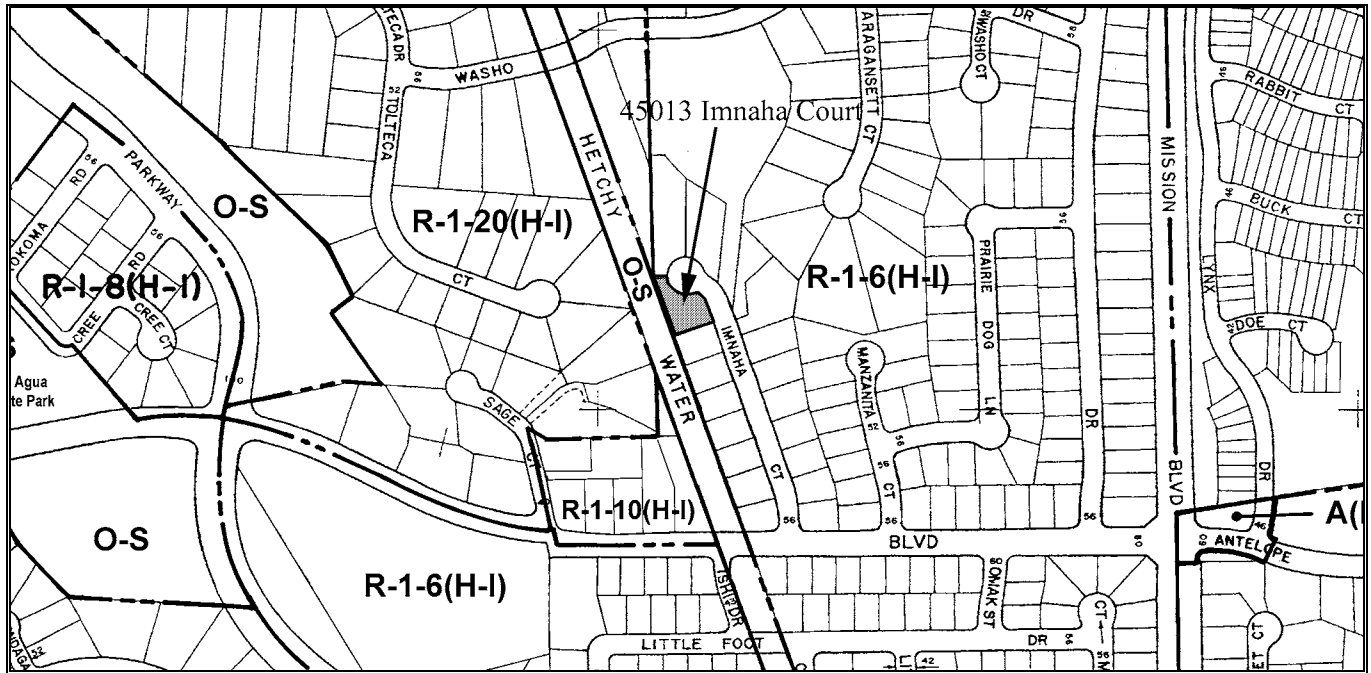
Informational 2 Imnaha Court Residents' Statement Opposing Proposed Operation for Natural Bridges Preschool, dated July 16, 2003 and Letter from One Additional Resident in Opposition dated July 30, 2003.
Informational 3 Applicant Flyer for Open House and Information Night, dated July 31, 2003 and Applicant Summary of Information Night dated August 1, 2003
Informational 4 Imnaha Court Residents' Statement Requesting a Public Hearing, dated August 4, 2003.
Informational 5 Traffic Analysis by Rene Dalton, dated September 8, 2003.
Informational 6 Police Analysis by Detective Robert Willett, dated September 10, 2003.
Informational 7 Letters of support for the Large Family Day Care facility
Informational 8 Applicant study of activities on Imnaha Court

Exhibits: Exhibit "A" Ordinance No. 2045 (Fremont Municipal Code Title VIII, Chapter 2)
Exhibit "B" Findings and Conditions of Approval for MIS2003-01407

Recommended Actions:

1. Hold public hearing.
2. Find MIS2003-01407 is statutorily exempt from CEQA per Section 15274.
3. Find MIS2003-01407 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Fundamental Goals and Land Use Chapters as enumerated within the staff report.
4. Approve MIS2003-01407, as shown on Exhibit "A", subject to Findings and Conditions on Exhibit "B".

Existing Zoning
Shaded Area represents the Project Site



Existing General Plan

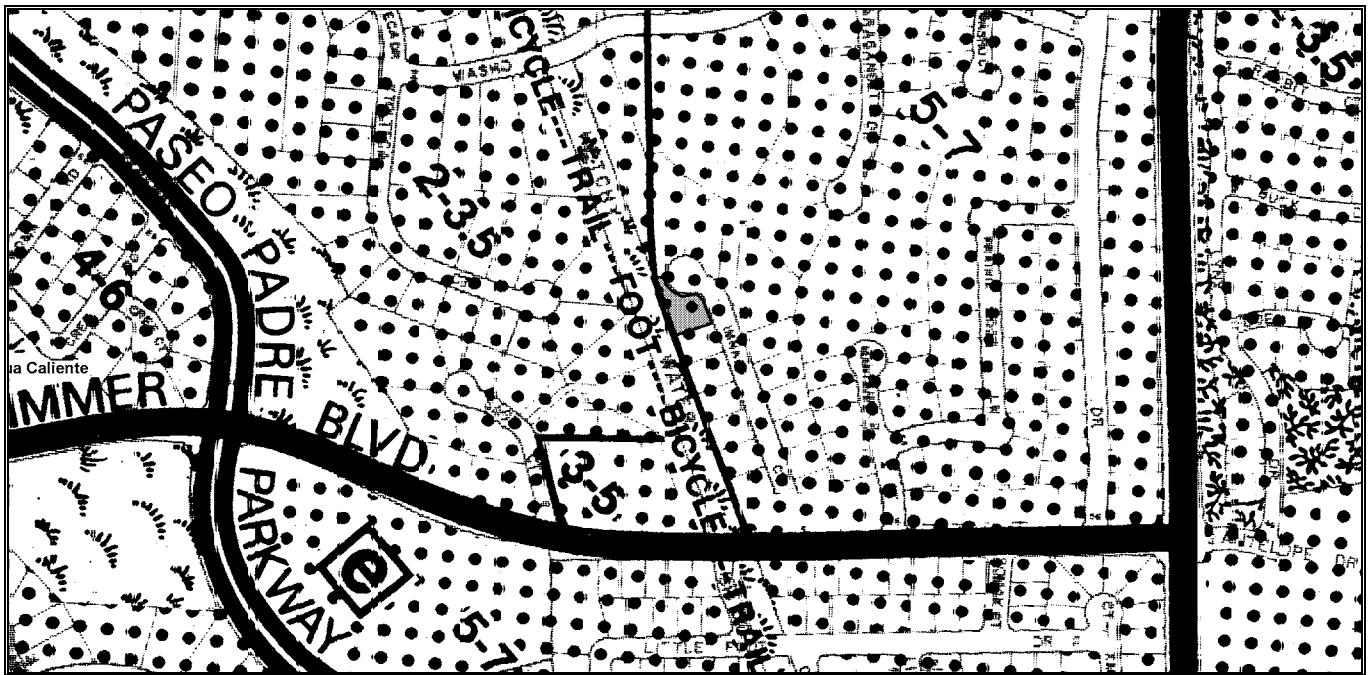


Exhibit "B"
Findings and Conditions of Approval for MIS2003-01407
Natural Bridges Preschool – Zoning Administrator Permit
45013 Imnaha Court

Findings:

- a. The large family daycare facility is exempt from the application of the California Environmental Quality Act (CEQA) under Section 15274 (Family Daycare Homes).
- b. The site is suitable and adequate for the proposed use because there are no other large family daycare facilities within 300 feet of the subject's property. In addition, "Conditions of Approval" are incorporated to ensure that the use will not cause an adverse impact on its surroundings.
- c. The proposed use would not have a substantial adverse effect on traffic circulation and on the planned capacity of the street system or other public facilities or services because a large family daycare facility is limited to fourteen children. If a substantial adverse effect on traffic circulation is found, the applicant would be required to implement a staggered drop-off and pick-up program for its clients.
- d. The proposed use would not have a substantial adverse economic effect on nearby uses.
- e. The proposed use would not have a substantial adverse impact on the general welfare of persons residing in the community.
- f. The use is consistent with the General Plan in that Policy LU 1.1 permits child daycare facilities within residential districts.

Conditions of Approval:

1. Conformance with Exhibit "A", Standards of Operation (Section 8-22147.5 of the Fremont Municipal Code), and all conditions of approval as set forth herein.
2. The operator of the facility must reside at the property.
3. The hours of operation will be generally limited to the hours of 7:00 A.M. to 5:00 P.M., Monday through Friday.
4. The number of children shall not exceed fourteen at any time.
5. Adult supervision of the children at the facility shall be required at all times during the hours of operation.
6. Noise levels at the facility shall not exceed 60 decibels at the property lines.
7. Use and location of play areas shall not cause any excessive discomfort for adjacent residents or property owners on the use of their property. Location of play areas shall not be located in front yard of the facility.
8. There shall be a minimum of two parking spaces available to serve the customers during the facility's hours of operation. The operator shall be required to advise all customers in writing of the two designated spaces serving as parking for dropping off and picking up children attending the facility. A

copy of this letter shall be submitted to the Planning Division prior to the inspection conducted by the Fire Marshal.

9. All clients requesting the facility's service would be notified and scheduled appropriate staggered drop-off/pick-up times to alleviate potential congestion in the area.
10. The garage shall be utilized for the parking of vehicles, and its use for any of the facility's daycare function is prohibited.
11. Any pets that may cause harm to the children must be restrained and placed in areas inaccessible to the children.
12. Solid fencing, minimum of 6-feet in height, shall be required to enclose the rear and interior side yards of the property.
13. The operator shall complete and file a Business Tax License for the Large Family Daycare operation with the City prior to the inspection conducted by the Fire Marshal.
14. Clearance from the City's Fire Department for compliance with all regulations of the State of California Fire Marshal shall be required prior to the operation of the day care facility.
15. The Zoning Administrator must be notified, in writing, if any new additions to the facility and/or new accessory structures (i.e., recreation room) are used as part of the daycare operation.
16. The applicant shall acknowledge and agree that, although the facility may be validly licensed by the State, failure to comply with local zoning regulations may be subject to citations issued by the City of Fremont.
17. This Zoning Administrator Permit shall be subject to review and possible revocation by the Zoning Administrator or City Council at such time as any of the following conditions are found to exist:
 - a. Standards of operation (FMC, Article 21.3, Section 8-22147.5) have not been fulfilled;
 - b. The use has resulted in a substantial adverse effect on the health and/or General welfare of users of adjacent or proximate property;
 - c. The use has resulted in a substantial adverse impact on public facilities or Services.